

04-*R*-1703

For damages alleged to have been sustained during a water main break on June 30, 2004 at 2704 St. Paul Drive.

BY: JERRY L. DELOACH
DEPUTY CITY ATTORNEY

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE: 9/28/04

CHAIR

21 K4 Shp

John M. Shearer

ATLANTA CITY COUNCIL, PRESIDENT

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Richard Davidson, Jr.
 MUNICIPAL CLERK



**CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK**

October 8, 2004

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30303
(404) 330-6033
FAX (404) 658-6273

Phoenix Loss Control & Recovery, as
subrogee of Comcast
Attn: Katie Simpson:
2545 E. Geddes Place
Centennial, CO 80122

04-R-1703

Dear Ms. Simpson:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on October 04, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 04L0549

Date: September 14, 2004

Claimant /Victim PHOENIX LOSS CONTROL AND RECOVERY as subrogee of Comcast

BY: (Atty) (Ins. Co.) _____

Address: 2545 E. Geddes Place Centennial, CO 80122

Subrogation: X Claim for Property damage \$ 1,252.50 Bodily Injury \$ _____

Date of Notice: 08/16/04 Method: Written, proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 06/30/04 Place: 2704 St. Paul Drive

Department _____ Bureau: _____ Division: _____

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges that it sustained damages during the repair of a water main break at 2704 St. Paul Drive. However, an investigation determined that Kemi Construction Company, Inc. was working at this location and is responsible for the damages. The claimant has been advised to pursue its claim with Kemi Construction Company, Inc.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other X

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental _____ Ministerial _____

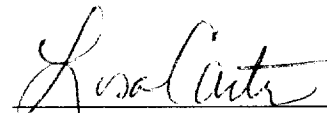
Improper Notice _____ More than Six Months _____ Other X Damages reasonable _____

City not involved X Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,



INVESTIGATOR - LISA CARTER

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____

Claims Manager:  Concur/date 09/15/04

Committee Action: _____ Council Action _____

RCS# 6083
10/04/04
1:58 PM

Atlanta City Council

Regular Session

CONSENT I CONSENT I PGS 6-20 EXCEPT 04-O-1587 1588
 1589 1591 1592 1252 1254
 ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 2

| | | | |
|-----------|-------------|-----------|------------|
| Y Smith | Y Archibong | Y Moore | Y Mitchell |
| Y Starnes | Y Fauver | Y Martin | Y Norwood |
| Y Young | B Shook | B Maddox | Y Willis |
| Y Winslow | Y Muller | Y Sheperd | NV Borders |

CONSENT I

| | | 10-04-04 Council Meeting |
|-----------------------------|------------------------------|------------------------------|
| ITEMS ADOPTED ON CONSENT | ITEMS ADVERSED ON CONSENT | ITEMS ADVERSED ON CONSENT |
| 1. 04-O-1418 | 38. 04-R-1683 | 60. 04-R-1705 |
| 2. 04-O-1441 | 39. 04-R-1684 | 61. 04-R-1706 |
| 3. 04-O-1565 | 40. 04-R-1685 | 62. 04-R-1707 |
| 4. 04-O-1567 | 41. 04-R-1686 | 63. 04-R-1708 |
| 5. 04-O-0438 | 42. 04-R-1687 | 64. 04-R-1709 |
| 6. 04-O-1507 | 43. 04-R-1688 | 65. 04-R-1710 |
| 7. 04-O-1559 | 44. 04-R-1689 | 66. 04-R-1711 |
| 8. 04-O-1572 | 45. 04-R-1690 | 67. 04-R-1712 |
| 9. 04-O-1582 | 46. 04-R-1691 | 68. 04-R-1713 |
| 10. 04-O-1728 | 47. 04-R-1692 | 69. 04-R-1714 |
| 11. 04-O-1732 | 48. 04-R-1693 | 70. 04-R-1715 |
| 12. 04-R-1655 | 49. 04-R-1694 | 71. 04-R-1716 |
| 13. 04-R-1421 | 50. 04-R-1695 | 72. 04-R-1717 |
| 14. 04-R-1668 | 51. 04-R-1696 | |
| 15. 04-R-1719 | 52. 04-R-1697 | |
| 16. 04-R-1487 | 53. 04-R-1698 | |
| 17. 04-R-1624 | 54. 04-R-1699 | |
| 18. 04-R-1673 | 55. 04-R-1700 | |
| 19. 04-R-1674 | 56. 04-R-1701 | |
| 20. 04-R-1675 | 57. 04-R-1702 | |
| 21. 04-R-1491 | 58. 04-R-1703 | |
| 22. 04-R-1659 | 59. 04-R-1704 | |
| 23. 04-R-1660 | | |
| 24. 04-R-1661 | | |
| 25. 04-R-1662 | | |
| 26. 04-R-1663 | | |
| 27. 04-R-1664 | | |
| 28. 04-R-1665 | | |
| 29. 04-R-1613 | | |
| 30. 04-R-1676 | | |
| 31. 04-R-1677 | | |
| 32. 04-R-1678 | | |
| 33. 04-R-1679 | | |
| 34. 04-R-1680 | | |
| 35. 04-R-1681 | | |
| 36. 04-R-1682 | | |
| 37. 04-R-1718 | | |